



Montana Environmental Trust
Group, LLC Trustee of the Montana
Environmental Custodial Trust PO Box 1230,
East Helena, Montana 59635
Telephone: (406) 227-1242

July 20, 2011

CERTIFIED MAIL 7009 2820 0001 40720 2251
RETURN RECEIPT REQUESTED

Betsy Burns
RCRA Project Officer
EPA Region VIII
Montana Office
10 West 15th St., Suite 3200
Helena, MT 59626

ENVIRONMENTAL
PROTECTION AGENCY

JUL 21 2011

MONTANA OFFICE

RE: Consent Decree Civil Action No. CV 98-3-H-CCL East Helena Site
Work Performed in June 2011; Progress Report

Dear Betsy:

On May 5, 1998, ASARCO and the United States Environmental Protection Agency (EPA) entered into a Consent Decree (the Decree) to further the objectives of the Resource Conservation and Recovery Act (RCRA) and the Clean Water Act (CWA). On December 9, 2009, the Montana Environmental Custodial Trust (the Custodial Trust) was established as part of the larger ASARCO bankruptcy settlement agreement to provide operational, remediation and revitalization activities at the Montana Sites, which include the East Helena Smelter. The United States and the State of Montana are the two designated beneficiaries of the Custodial Trust.

Pursuant to the Settlement Agreement, a motion to reopen the Decree and substitute the Custodial Trust for ASARCO was granted by the US Federal District Court in January 2010. As of the date of this report, EPA, DOJ and the Custodial Trust are in the process of finalizing a First Modification to the Decree that will conform to the

terms of the Settlement Agreement. The Custodial Trust submits this progress report under the Decree subject to and pending the finalization of the First Modification to the Decree. Nothing herein, or in the substitution, should be interpreted or construed to constitute an unqualified acceptance of the terms of the Decree by the Custodial Trust or a waiver or release of its right to a modification of the Decree consistent with the Settlement Agreement. The Custodial Trust reserves all rights to object to those parts of the Decree that it reasonably believes are inconsistent with the Settlement Agreement. As with this report, future progress reports prescribed by the Decree, as so amended, will be submitted to EPA by the Custodial Trust.

Section XII of the Decree (Reporting: Corrective Action) requires submittal of certified monthly progress reports to EPA to describe the actions taken to achieve compliance with the Decree. The following describes those activities that have occurred or are related to activities that took place during June 2011. As to any actions performed by ASARCO, the Custodial Trust's predecessor-in-interest, the descriptions are based on information and belief only.

SECTION 1. DESCRIPTION OF ACTIVITIES FOR JUNE 2011

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
Draft Phase II RFI	Hydrometrics / GSI	METG provided the draft Phase II RFI to the Beneficiaries on May 20 th for their review and comment.	No data submittal	No problems encountered	90%
Field Sampling and Analysis Plan (FSAP)	Hydrometrics	The Custodial Trust and the EPA met with representatives from the County WQPD on June 21 st to provide an update on the FSAP and selenium plume characterization work. Second quarter monitoring activities ended on June 30 th . Hydrometrics Contract Modification #4 was executed on June 28, 2011 for completing the third and fourth quarters of the 2011 FSAP.	Continuous and ongoing updates to the Site Database	No problems encountered	100% of 2 nd quarter
Data Management Plan (DMP) and Quality Assurance Project Plan (QAPP)	Hydrometrics	EPA requested formal procedures be developed to review and verify all data entered into the database. On June 2 nd , Hydrometrics Contract Modification #3 was executed to revise and update the DMP and addend the QAPP.	Revised DMP and QAPP will be completed by August 12 th .	No problems encountered	15%
Selenium Plume Front Investigation	Hydrometrics	Hydrometrics was approved in Contract Modification #5 on June 20 th to proceed with residential well sampling (n=58) north of Canyon Ferry Road based on direction and input from the EPA.	Down-gradient Residential Well Sampling scope of work was initiated on June 23 rd and should be completed by mid to late July depending on residential well access.	No problems encountered	65%

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
Corrective Measures Study (CMS)	CH2M-Hill	<ol style="list-style-type: none"> 1. CMS Work Plan Draft Goals and Objectives were distributed to the beneficiaries on June 13th. Comments from DOJ and DEQ are being reviewed by the Custodial Trust, CH2M Hill and the EPA. 2. Hydrometrics and GSI were directed to prepare scopes for development of conceptual site models for specific areas of concern on the site. 3. GSI Contract Modification #6 was executed on June 6th to perform a preliminary evaluation of the South Plant Hydraulic Control interim measure by GSI indicates that Upper/Lower Lake provide the majority groundwater recharge to the localized groundwater system under the plant. Draft SPHC Technical Memorandum will be provided on or before July 8th. 4. CH2M-Hill is preparing a scope of work for aerial mapping of the site. 	No data submittal	No problems encountered	65%
Baseline Ecological Risk Assessment (BERA)	Gradient	Gradient will issue the final BERA report after discussions with USFWS regarding the risks to birds from off-site soils.	No data submittal		90%
Human Health Risk Assessment (HHRA)	Exponent/CH2M-Hill	CH2M-Hill is developing a scope of work for a technical memorandum update of Exponent's 2009 screening level risk assessment for human health.	No data submittal	No problems encountered	
Consent Decree Modification	METG/DOJ	Modification #1 to the 1998 CD in final review between the EPA and USDOJ.	No data submittal	No problems encountered	95%

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
Groundwater Technical Working Group (TWG) – Groundwater Model Work Plan	METG/EPA/MDEQ/MDOJ	The Groundwater Model and TWG will be delayed until the South Plant Water Balance and the Site Conceptual Models are completed later this fall.	No data submittal	No problems encountered	- %
Corrective Action Management Unit (CAMU)	CH2M-Hill	CH2M-Hill provided the Site Inspection Completion Report CAMU 1 on June 15 th . Supplemental Assessment Summary Technical Memorandum CAMU 1 and Groundwater Monitoring Network Evaluation East Helena Corrective Action Management Unit (CAMU) will be finalized the week of July 18.	No data submittal	No problems encountered	80%
Water Treatment Plant	METG	The HDS water treatment plant operated June 1 – 4, June 5 – 17, June 19 – 24, and June 26 – July 1 for a total of 23 days.	DMR for May 2011 submitted to MDEQ.	No problems encountered	100%
Flood Control	METG	On June 7 th , a causeway on McClelland Creek broke releasing waters that contributed to flooding conditions on Prickly Pear Creek. The increased flow through Prickly Pear Creek breached the diversion structure into Upper Lake and the causeway from Upper Lake to Prickly Pear Creek causing damage to these structures which will need repair to preserve the water level in Upper Lake. Under 310 Law Natural Streambank Preservation Restoration, an emergency notice to repair the causeway was necessary within 15 days after the repair, which is planned in early July after water levels recede. Additionally, during the flood event a crack in the northeast slope of the slag pile was a concern to local emergency response agencies. The Custodial Trust had Hydrometrics evaluate slope stability at the slag pile. Hydrometrics determined that portion of the slag pile appears stable and is not likely to fall into Prickly Pear Creek.	No data submittal	No problems encountered	90%

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
Property Use/ Development	METG	<ol style="list-style-type: none"> 1. American Chemet lease of warehouse space finalized June 20th. 2. Zanetti Land Use Agreement for laydown area and East Fields to complete CERCLA cleanup work finalized on June 20th. 3. H&H Metals negotiating with Custodial Trust for slag sales. 4. City of East Helena request for conveyance, easements and other parcels. 	No data submittal	No problems encountered	90%
Community & Local Meetings	METG	<ol style="list-style-type: none"> 1. LEAP & ICs meetings 2. East Helena City Council Meeting 3. Lewis and Clark County WQPD meeting 4. Beneficiary Meeting 	No data submittal	No problems encountered	-

SECTION 2. ACTIVITIES SCHEDULED FOR JULY 2011

Task	Performing Entity	Description
Data Management Plan (DMP) and Quality Assurance Project Plan (QAPP)	Hydrometrics	Continue to implement formal Quality Assurance procedures for review and verification of data stored in the Enviro Data database. DMP will be updated and revised and QAPP will be amended and both documents reissued to incorporate these changes and current data collection activities.
Downgradient Residential Well Sampling	Hydrometrics	Continue residential well sampling down-gradient of the off-site Selenium plume. Sampling and surveying should be completed by the third week of July.
Corrective Measures Study (CMS)	GSI / Hydrometrics	Hydrometrics and GSI to prepare scopes of work for development of Conceptual Site Models (SCM) for specific areas of potential concern on the site. GSI to prepare a technical memorandum describing the South Plant Water Balance analysis by July 8 th . A technical meeting will follow. CH2M-Hill to prepare a scope of work for aerial mapping of the site.
Property Use / Development	East Helena	Land use and redevelopment proposals expected in July. Review and evaluate during July.
Monthly inspections of six temporary cap areas	TS Consulting	Monthly inspections of the temporary cap areas will continue in July.
CAMU Inspections	TS Consulting/METG	Routine inspections of CAMU #1 (monthly) and CAMU #2 (weekly) will continue in July 2011. Pump leak detection system and leachate collection systems in CAMU #2.
Water Treatment Plant	METG	Operate the water treatment plant as needed.
Storm Water MPDES	METG	Submit semi-annual DMR for Storm Water MPDES.
LEAP & ICs Meeting	L&C County/EPA	Monthly meeting on July 13.
Beneficiaries Meeting	EPA/MDEQ/MDOJ/METG	Monthly beneficiaries meeting July 21.

Section 3. Describe and estimate the percentage of studies completed.

No projects or studies were completed in June 2011. A complete listing of projects completed in 2011 will be reported in the January 2012 Progress Report.

Section 5. Describe actions being taken to address problems.

There were no actions required to address problems associated with the Decree.

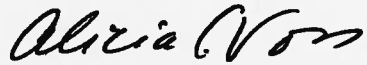
Section 6. Identify changes in key personnel during the period.

There were no significant changes in key personnel during the period.

Section 7. Describe the status of financial assurance mechanisms, including whether any changes have occurred, or are expected to occur which might affect them, and the status of efforts to bring such mechanisms back into compliance with the requirements of this Decree.

The Custodial Trust received funds for Environmental Actions earmarked for site clean-up in connection with the ASARCO bankruptcy settlement. The Custodial Trust deposited the funds in a segregated East Helena Clean-up account and is investing and managing the funds in accordance with the provisions of the Settlement Agreement. Issues related to the CAMU trust are stilling being resolved between the beneficiaries and ASARCO.

Please do not hesitate to contact me if you have any questions.

A handwritten signature in cursive script, reading "Alicia C. Voss".

Alicia C. Voss
Consultant to Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust

cc: Denise Kirkpatrick—MDEQ
Randy Breeden—EPA 8
Chuck Figur—EPA 8

CERTIFICATION
PURSUANT TO U.S. v ASARCO INCORPORATED
(CV-98-3-H-CCL, USDC, D. Montana)

"I certify under penalty of law that this document and all attachments, were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."



Alicia C. Voss
Consultant to Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust